

Appl. 09/120,383
Atty. Dkt. No. 67242/107

Remarks

Applicants affirm their response to the restriction requirement and make their election of species. Specifically, in the restriction requirement dated August 24, 2004, the Examiner required restriction under 35 U.S.C. § 121 between

- I. Claims 26-32, drawn to compounds, classified in class 562, subclass 405+.
- II. Claim 32, drawn to method of use, classified in class 514, subclass 562.

Applicants provisionally elected to prosecute Group I, claims 26-31, drawn to compounds classified in class 562, subclass 405+, with traverse. In addition, for the election of species,

Applicants provisionally elect example 44 (Ia) (page 43) with traverse. It is respectfully submitted that the evidence and explanation fail to establish a serious burden, which is required to maintain a restriction requirement.

Nevertheless, if the restriction/election of species requirements were to be maintained, then Applicants respectfully request the Examiner to expand the scope of his search beyond the elected species to include the entire claimed genus and to rejoin withdrawn claims if allowed.

The Examiner may contact Sean A. Passino (45,943) at 202-295-4166 if any matters may be resolved via a telephone conference. An action on the merits is awaited.

Respectfully submitted,

Date 10-28-2004

By Stephen B. Maebius (45,943)
SEAN A. PASSINO
Stephen B. Maebius
Attorney for Applicants
Registration No. 35,264

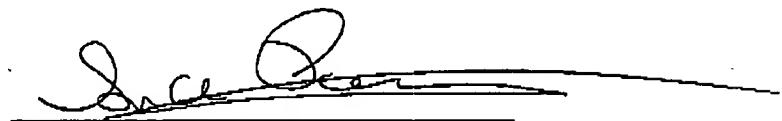
FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5569
Facsimile: (202) 672-5399

Should additional fees be necessary in connection with the filing of this paper or if a definition or extension of time is required for timely acceptance of same, we Commissioner hereby certify that the undersigned has deposited a sum of \$10.00 for any such fees in application for a deposit account. I further certify that I have no money needed for extension of time.

Appl. 09/120,383
Atty. Dkt. No. 67242/107

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R § 1.8

I hereby certify that the attached paper, "RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT," (7 pages) is being transmitted by facsimile to the U.S. Patent and Trademark Office on the above-identified date.



Sean A. Passino (45,943)

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.